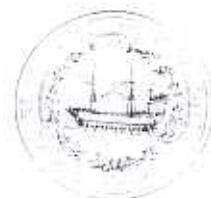




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 5, 2008

The Honorable Martha Fuller Clark, Chairman
Energy, Environment, and Economic Development Committee
Room 102, Legislative Office Building
Concord, NH 03301

RE: SB 510-FN-A, relative to fees for terrain alteration permits

Dear Chairman Fuller Clark:

Thank you for the opportunity to comment on SB 510-FN-A, relative to reducing application fees for terrain alteration permits. The Department of Environmental Services (DES) does not support this legislation because it will negatively affect the performance of the DES Alteration of Terrain (AoT) Program. The AoT program reviews projects that involve the excavation of soil and other surface materials to ensure that natural runoff patterns and water quality are protected from uncontrolled drainage and soil erosion.

SB 510 proposes to reduce the permit application fees for the AoT Program to the levels that existed prior to July 1, 2007, when the fees were increased and the following other program changes were made:

- Program funding was switched from 100% unrestricted general fund revenues to 100% fee funded, and staff funding was switched to the fee account.
- Statutory time frames of 50 days for application reviews were established for permit applications submitted after January 1, 2008. A failure by DES to complete its review of these new applications within 50 days of receipt results in automatic approval and issuance of the permits.
- Quarterly reports to the Legislature on the program status are also now required.


Enclosed is the AoT Quarterly Report for the second quarter of State Fiscal Year 2008. This report shows that the dedicated fees have been properly managed by DES, although revenues have been lower than projected based on an "average" year for permit applications. The lower revenues are directly attributable to the ongoing slowdown in New Hampshire's development sector. As a result, DES has delayed the hiring for two vacant engineering positions included in the FY 2008 budget. These positions will not be filled until it is clear that they can be supported adequately by program funding. However, as also noted in the quarterly report, with existing staff, plus some temporary support from another engineering position, permit applications are being processed in a timely manner, and we will meet the statutory review time frames that apply to all applications received on or after January 1, 2008. We believe that the AoT Program is performing in accordance with the Legislature's expectations in enacting the program changes that were enacted last year.

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SB 510 proposes a 60% reduction from current fees. Without a corresponding increase in general fund or other financial support for the AoT program, DES will be unable to fund the engineering staff needed to meet the statutory deadlines for application decisions set by the Legislature. If projects are not acted upon within the fifty day deadline, they are "deemed approved" and a permit must be issued, regardless of the environmental consequences. If enacted, SB 510-FN would undermine the ability of the AoT program to perform its runoff and erosion control functions. DES respectfully submits that the most appropriate public policy would be to continue to adequately fund the AoT program through the new dedicated fee structure, so that it can successfully carry out its environmental protection responsibilities.

Thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please contact Ridgely Mauck, Administrator, Terrain Alteration Bureau at 271-2303 or me at 271-2958.

Sincerely,


Thomas S. Burack
Commissioner

cc: Senator Gallus
Senator Gatsas
Senator Roberge
Representative Bulis
Representative Chandler
Representative Gionet